

STEVEN R. JACOBSEN, BAR NO. 95246  
EMAIL; SRJ@THEACCIDENTALLAWYER.COM  
BRENDA D. POSADA, BAR NO.152480  
EMAIL: BDP@THEACCIDENTALLAWYER.COM  
LAW OFFICES OF STEVEN R. JACOBSEN  
901 CLAY STREET  
OAKLAND, CALIFORNIA 94607  
TELEPHONE (510) 465-1500; FAX (510) 465-1501

ATTORNEY FOR PLAINTIFFS  
MIGUEL & BENJAMIN ORTEGA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

MIGUEL ORTEGA, BENJAMIN ORTEGA,  
A Minor, By And Through His Guardian Ad  
Litem, ANA ROSA ORTEGA.

**Plaintiffs,**

vs.

CITY OF OAKLAND, OAKLAND POLICE  
DEPARTMENT, CHIEF WAYNE TUCKER,  
In His Capacity As The Police Chief Of The  
City Of Oakland, RAMON J. ALCANTAR,  
Individually And In His Capacity As A Police  
Officer For The City Of Oakland, BERNARD  
ORTIZ, Individually And In His Capacity As A  
Police Officer For The City Of Oakland, and  
Does 1 through 200,

## Defendants.

) Case No.:C-07-02659 JCS

| **PLAINTIFFS' REQUEST FOR**  
| **ADMINISTRATIVE RELIEF**  
| Civil Local Rule 7-11

} The Honorable Magistrate Judge  
} JOSEPH C. SPERO

{ TRIAL DATE: December 1, 2008

Plaintiffs' submit this REQUEST FOR ADMINISTRATIVE RELIEF pursuant to Northern District **Civil Local Rule 7-11**. The Motion for Partial Summary Judgment is noticed by defendants to be heard on September 19, 2008. It was electronically filed after 5:00 pm and plaintiffs did not see a copy of the approximate 500 pages until Monday August 18, 2008. Plaintiffs' have conducted a cursory review of the defendants' motion and it is brought by four separate defendants, includes four declarations, seeks dismissal of eight (8) different causes of action, includes 34 cited cases, and makes reference to 64 facts in the Joint Statement. According to Local Rules, plaintiffs have to file their Opposition no later than twenty-one days before the hearing date is September 19,

1 2008, which gives plaintiffs only 10 business days to review approximately 500 pages, review the  
2 cited law in defendant's brief, research and cite the law in support of plaintiffs' opposition and  
3 prepare the brief. Plaintiffs' counsel needs to consult with their expert, Roger Clarke and may need  
4 to obtain a declaration from said expert in support their opposition. Plaintiffs' firm consists of only  
5 two lawyers who prior to the filing of said motion had other commitments within that time period.  
6

7 Due to Stephen R. Jacobsen's other commitments, the opposition to this brief will be  
8 prepared by Plaintiffs' counsel Brenda D. Posada. Ms. Posada is currently working on an opening  
9 brief involving a complex appeal in state court and said opening brief is due September 9, 2008.  
10 Due to time constraints and the nature of plaintiffs' counsel's small practice, Plaintiffs request that  
11 this court continue the hearing to October 17, 2008, providing plaintiffs additional time to  
12 competently respond to the voluminous motion filed by each of the four Defendants. (Although  
13 their motion is combined, Plaintiffs will have to oppose each argument separately against each  
14 defendant)

15 In the interest of cooperation, and since plaintiffs had agreed to stipulate to an extension of  
16 the original motion hearing date, set for August 22, 2008 to September 19, 2008, (Document #53) as  
17 a courtesy to defendants, plaintiffs felt it appropriate to ask defense counsel Charles Vose to likewise  
18 stipulate to an extension of the hearing date of their current motion. Plaintiffs requested a  
19 stipulation to continue the motion hearing in order to provide plaintiffs additional time to oppose  
20 the current motion. However, Mr. Voce informed Ms. Posada that due to the upcoming pre-trial  
21 deadlines in this case, he felt that he would have inadequate time to prepare pre-trial filings by the  
22 October 31, 2008 deadline. But without this court's extension plaintiffs would have inadequate time  
23 to respond to the defendants' summary judgment motion. (See Declaration of Brenda D. Posada)  
24 Plaintiffs will be severely prejudiced and the outcome of the litigation definitely affected. *Id.*

25 Defense counsel agreed and the stipulation is attached hereto. Trial is set for December 1,  
26 2008. There is no prejudice to any of the parties in continuing the hearing but plaintiffs' will be  
27 unable to competently and adequately oppose the motion if the hearing is not continued for at least  
28

1  
2 a period of three weeks.  
3

4 DATED: August 21, 2008

LAW OFFICES OF STEVEN R. JACOBSEN

5 By: \_\_\_\_\_ \\\s\\

6 BRENTA D. POSADA  
Attorney for Plaintiffs  
BENJAMIN ORTEGA AND MIGUEL ORTEGA

7  
8 **[Proposed] Order**

9 Having considered Plaintiffs' request, it is so ordered.

10 Plaintiffs' request for a continuance of Defendants' Motion for Partial Summary Judgment  
11 currently set for September 19, 2008 is denied. The hearing date is now set for September 26, 2008 at \_\_\_\_ am/pm. The  
12 opposition is now due 21 days before the new hearing date, or September 15, 2008. The reply is now  
13 due 14 days before the new hearing date, or September 22, 2008. The reply is now

14 Dated: 8/22/08

15 Magistrate Joseph C. Spero

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